

GRADY ARGENBRIGHT

IBLA 76-624

Decided September 17, 1976

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting appellant's simultaneously filed noncompetitive oil and gas lease offer, NM-A 27999.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Future and Fractional Interest Leases

An oil and gas lease offer for land in which the United States owns a fractional mineral interest must be accompanied by a statement showing the extent of the offeror's ownership of the operating rights to the fractional mineral interest not owned by the United States. An offer which is defective for failure to comply with this mandatory regulation must be rejected.

2. Oil and Gas Leases: Applications: Amendments -- Oil and Gas Leases: Applications: Drawings

An oil and gas lease offer filed under the simultaneous filing procedures, 43 CFR Subpart 3112, which is defective for failure to comply with a mandatory regulation may not be cured by subsequent filing of supplemental information after the drawing is held.

APPEARANCES: Charles C. Sorrells, Esq., of Touchstone, Bernays & Johnston, Dallas, Texas, for appellant.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Appellant brings this appeal from a decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting his simultaneously filed noncompetitive acquired lands oil and gas lease offer (NM-A 27999, Texas). The basis of the decision was that the United States owns only a fractional mineral interest in the oil and gas in the parcel and the offeror failed to provide a statement showing his ownership of the operating rights to the fractional mineral interest not owned by the United States as required by regulation.

Appellant contends in his statement of reasons for appeal that he was not aware of the requirement that he file a statement regarding his ownership of operating rights to the fractional mineral interest not owned by the United States, and furthermore, that the filing service which he utilized was not aware of such a requirement. He now states that he does not have any interest in the oil and gas operating rights not owned by the United States in the subject lands. He argues that, as first drawn offeror, he should be awarded the subject lease, regardless of the deficiency in his offer.

The record discloses that appellant's simultaneous oil and gas entry card was drawn first for parcel 627 in the "Notice of Lands Available for Oil and Gas Filings" dated March 15, 1976. The notice contained a description of the land embraced in the parcel. Immediately underneath the land description for parcel 627, the following notations appeared:

75% U.S. Mineral Interest

* * *

OFFEROR MUST SUBMIT A STATEMENT WITH HIS OFFER AS TO WHETHER HE DOES OR DOES NOT OWN ANY OIL AND GAS OPERATING RIGHTS IN THE INTERESTS NOT OWNED BY THE UNITED STATES (43 CFR 3130.4-4).

Appellant's drawing entry card was not accompanied by any statement regarding ownership of the operating rights to the fractional mineral interest not owned by the United States.

The regulation governing fractional interest lease offers is unambiguous:

Fractional present interests.

An offer for a fractional present interest noncompetitive lease must be executed on a form approved by the

Director and it must be accompanied by a statement showing the extent of the offeror's ownership of the operating rights to the fractional mineral interest not owned by the United States in each tract covered by the offer to lease. [Emphasis supplied.]

43 CFR 3130.4-4

[1] This Board has repeatedly emphasized that this regulatory requirement is mandatory. Where the United States owns only a fractional mineral interest in the land, the offeror must accompany the offer with a statement showing the extent of the offeror's ownership of the operating rights in the fractional mineral interest not owned by the United States. Where there is no such accompanying statement, the offer must be rejected. Michael Shearn, 24 IBLA 259, 260 (1976).

[2] An offer filed under the simultaneous filing procedures, 43 CFR Subpart 3112, which is defective for failure to comply with a mandatory regulation may not be cured by subsequent filing of supplemental information after the drawing is held. Manhattan Resources, Inc., 22 IBLA 24 (1975). Accordingly, the statement filed on appeal to the effect that appellant has no interest in the operating rights to the fractional interest not owned by the United States cannot uphold the application.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Newton Frishberg
Chief Administrative Judge

